

A Guide to the Legal Basis for Developing Local Emergency Plans

Purpose	This document outlines the legal basis for emergency planning by local governments and the role of the Governor’s Office of Emergency Services (OES) in ensuring that these plans are in concert with the State Emergency Plan. It is intended to be a quick reference and supplement to existing guidance and direction.
Background	Chapter 7 of Division 1 of Title 2 of the Government Code (GC) also known as the California Emergency Services Act (ESA) defines emergency plans, the scope and authority of the State Emergency Plan, the authority of the Governor to ensure the development of local plans in coordination with the state plan and responsibility of cities and counties to develop emergency plans (GC § 8550 et seq.). The Civil Defense and Disaster Master Mutual Aid Agreement requires signatories to develop mutual aid operational plans for mobilizing resources (GC § 8615). The emergency plans adopted by local government and approved as provided by the Governor satisfy this requirement (Id.).
Limitations	This guide is not an exhaustive treatise on the subject and in no way is a substitute for legal advice from appropriate counsel.
Where does it say I have to do an emergency plan?	Government Code 8610 of the ESA permits cities and counties to form Local Disaster Councils; such councils may be accredited by the California Emergency Council upon application (GC § 8612). If established, these councils are required to develop emergency plans and send a copy of these plans to the State Office of Emergency Services. The California Disaster and Civil Defense Master Mutual Aid Agreement requires signatories to develop plans to mobilize public and private sector resources to cope with any type of disaster (<i>see also</i> GC § 8615).
What about the costs?	<p>Local governments pay for the cost of emergency planning.</p> <p>Emergency planning is not a state mandate because the “requirement” preceded adoption of Proposition 13.</p> <p>Depending upon how your Operational Area (OA) distributes funds and or services from the FEMA/OES administered Emergency Management Performance Grant, you may receive support to develop your plan. Your Operational Area lead agency (county emergency services office) can inform you on how these funds are handled in your OA.</p>

What is the role of OES?

OES develops the State Emergency Plan and ensures the coordination of local emergency plans with the state plan in accordance with:

- **GC § 8568** making the State Emergency Plan effective in each of the state's political subdivisions, and requiring each governing body to carry out the provisions of that plan.
- **GC 8569** giving the Governor the responsibility to “coordinate the preparation of plans and programs for the mitigation of the effects of an emergency by the political subdivisions of this state, such plans and programs to be integrated into and coordinated with the State Emergency Plan. “
- **GC 8570 (c)** permitting the Governor to “provide for the approval of local emergency plans”.
- **GC 8586.** permitting the Governor to “...assign part or all of his responsibilities to the Office of Emergency Services”.

Lead responsibility within OES for emergency planning is assigned as follows:

- Planning and Technical Assistance Branch (PTAB) develops the State Emergency Plan, statewide planning guidance for local governments and state agencies. A copy of the PTAB guidance is available on the OES Web page: WWW.OES.CA.GOV or from your OES Region office.
 - OES Regions provide planning and technical assistance to cities and counties to develop emergency plans in accord with the ESA, the Master Mutual Aid Agreement and the State Emergency Plan.
 - **GC 8614** requires state and local officials and departments to give OES “...all possible assistance...in carrying out the provisions of this chapter”. Despite this authority, OES does not see itself as the Emergency Plan police! OES policy is to work cooperatively with cities and counties to achieve the desired end of having effective plans in place in times of emergency.
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What happens if I don't have a current emergency plan?

- You may expose your jurisdiction to increased liability because The ESA provides a greater liability protection for actions taken in concert with it. Actions taken under a plan outside of the ESA do not have the same level of liability protection as those under its protective umbrella.
- You may risk loss of some state disaster (response) recovery funds because you will probably have difficulty in documenting your compliance with **GC 8607**, which establishes the Standardized Emergency Management System(SEMS) and the SEMS Regulations (Title 19 Division 2 Articles 1 through 8).
- You may risk adverse public opinion and or political fallout. The media and the public have access to our records. They may regard a lack of compliance with emergency planning requirements in a negative manner with the resultant criticism and embarrassment.

Summary

Emergency planning is a critical responsibility of state and local government as provided for in law. OES provides assistance to cities and counties to accomplish this responsibility in accordance with the ESA. There are costs in developing and maintaining local emergency plans. Whatever time or monetary savings you may realize in not doing or updating your emergency plan may be more than offset by legal consultation, defense costs, and possible loss of state disaster recovery monies and loss of public confidence. It is safer, cheaper, and easier to work with OES and plan.

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